

## **REMARKS**

### **Status of the Claims**

- Claims 1-14 are pending in the Application.
- Claims 1-14 are rejected by Examiner.

### **Claim Rejections Pursuant to 35 U.S.C. §103**

Claims 1 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0045030 to Reynolds et al. (Reynolds) in view of U.S. Patent No. 6,301,231 to Hassan et al. (Hasan). Applicant respectfully traverses the rejection.

Reynolds describes a media streaming system that includes a searchable library of separate and distinct CODECs that are provided as part of a computer implemented intelligence system. (See Reynolds, Abstract). In one embodiment of Reynolds, the streaming media system provides compression of streaming of a multiplicity of media signals using a CODEC library that is adapted to store multiple CODECS of different types and operations, and that is adapted to be searched and accessed by a network system, such as a neural network, in order to provide an appropriate CODEC from the CODEC library for use in compressing the input streaming media signal into a compressed representation for transmission to a destination device. (See Reynolds, para 0155).

Independent Claim 1 is directed to a method for downloading a video program using a mobile terminal. Independent Claim 8 is directed to a mobile terminal for downloading (receiving) a video program. Thus, Claim 1 addresses activities occurring at a destination device (mobile device) *that receives a media stream* and Claim 8 addresses the destination device itself, whereas Reynolds describes a system that *transmits a multiplicity of media streams* to a destination device.

Thus, Reynolds differs from the pending claims because Reynolds describes transmitting aspects of a device (CODEC) that supplies a media stream whereas pending Claims 1 and 8 are directed to receiving aspects of a device that receives a media stream.

The present Office Action cites Reynolds Figure 2 as disclosing elements of Claims 1 and 8. Figure 2 of Reynolds describes a video/audio transcoder 200 that enables one video source 210 to be streamed across multiple formats 215 such as MPEG4, Real Video™, or Quick Time™ (See Reynolds, paragraph 0180). Specifically, Reynolds describes the Figure 2 transcoder as transcoding digitized media originating from any compressed or uncompressed format into a multiplicity of streams having any other format (See Reynolds, para. 0181). It is noted that the subject matter of Claims 1 and 8 do not include a transcoder or media format changes. Instead, Claim 1 addresses a method using different downlink rates for a mobile terminal using two separate networks.

The present Office Action on page 2 cites Reynolds paragraph 0142 as disclosing the method of a mobile terminal comprising the steps of downloading, through one of a first radio access network and a second radio access network. Applicant respectfully disagrees because Reynolds, at paragraph 0142, merely provides a dictionary-like definition for a Wireless Application Protocol ("WAP"). Reynolds does not discuss a method of downloading a video program using a mobile device, through one of a first radio access network and a second radio access network merely by defining the term Wireless Application Protocol. The definition provided by Reynolds, which is absent any discussion of downloading a video program using a first and second radio access network is as follows:

"Wireless Application Protocol ("WAP") is a specification for a set of communication protocols to standardize the way that wireless devices such as cellular telephones and radio transceivers, can be used for Internet access, including e-mail, the World Wide Web, newsgroups, and Internet Relay Chat

("IRC"). While Internet access has been possible prior to WAP, different manufactures have used "format-specific" technologies. WAP enables devices and service systems to intercooperate." (Reynolds, paragraph 0142).

Thus, Applicant respectfully submits that the Reynolds-provided definition of WAP fails to disclose the Claim 1 and Claim 8 aspect of downloading, through one of a first radio access network and a second radio access network, a video program using a mobile terminal.

The present Office Action on page 2 indicates that Reynolds at Figure 3 discloses a mobile terminal that downloads a video program through one of a first radio access network and a second radio access network, a video program using a mobile terminal at a respective first and second data transfer rates. Applicant respectfully disagrees.

According to Reynolds, Figure 3 describes a schematic block diagram of the transcoder system. (see paragraph 0170). According to Reynolds, paragraph 0182, the block diagram of Figure 3 is used to transmit multiple data streams simultaneously to different users. As explicitly explained by Reynolds in paragraph 0183:

"In order to provide still a further understanding of the present transcoder embodiment, FIG. 3 shows the transcoder 200 by way of further example as applied to serve multiple different video streams to different clients." (Reynolds, 0183)

Applicant notes that Reynolds Figure 3 indicates a single network 220 and not multiple networks as recited in the pending claims. Applicant also notes that different video streams in Reynolds are provided to different clients. These teachings differ from the pending claims because the pending claims recite the aspects of a single mobile terminal and a first and second radio access networks. Reynolds simply does not address these aspects.

Thus, Applicant respectfully submits that Reynolds teaches a transmission of multiple streams of data to multiple different clients. This is in contrast with pending Claims 1 and 8 which recite a single mobile terminal

downloading a video program using a first rate in a first network and a second rate in a second network. Thus, Applicant respectfully submits that Reynolds fails to teach the Claim 1 and Claim 8 aspect of downloading a video program using a mobile terminal and downloading, through one of a first radio access network and a second radio access network, the video program at respective first and second data transfer rates.

Applicant notes that Reynolds Figure 8 depicts a schematic block flow diagram of various interrelated components of a WAP gateway media communications system (Reynolds, paragraph 0174). Although a mobile phone 810 is depicted, it is depicted as one of several clients in a single wireless network in connection with a single wireless base station 820. Reynolds teaches the limitations of multiple mobile terminals and a single network. This is in contrast to the pending claims which recite the aspects of a single mobile phone and multiple networks. The pending claims do not recite multiple mobile terminals in a single network.

The present Office Action page 3 indicates that Reynolds at Figure 3, live Buffer Cache 310 depicts the Claim 1 aspect of a mobile terminal buffers portions of the downloaded video program that result when a rate at which the video program is downloaded exceeds the playback rate. Applicant respectfully disagrees.

Figure 3 of Reynolds depicts a transcoder 200 that includes a cache 310 to transmit data at different rates to different clients. (See Reynolds, paragraph 0182). Thus, since cache 310 is in the *transmitting* transcoder 200, the transmitter cache cannot be part of the mobile terminal *receiving* device of the pending claims. Thus, Reynolds fails to disclose the Claim 1 and Claim 8 aspect of a mobile terminal that buffers portions of the downloaded video program resulting when a rate at which the video program is downloaded exceeds the playback rate.

The present Office Action on page 2 cites Reynolds Figure 9, yet, Figure 9 of Reynolds teaches away from the current invention. Reynolds, Figure 9

shows a schematic block flow diagram of various interrelated components of a wireless communications system during backhauling (See Reynolds, para. 175). Applicant notes that the title on Figure 9 of Reynolds states "Depiction of backhaul communications resulting from handoff of cellular communication when recipient transits into a second cellular area". Also, as described in Reynolds paragraph 0237 with respect to Figure 9, a backhaul channel is generated whenever a transmitter or receiver migrates between call coverage zones in a network. The pass-off communications resulting in use of the backhaul channel. The backhaul channel represents a significant use of bandwidth. Specifically, as disclosed by Reynolds at paragraph 0237:

*As Figure [9] shows, such "backhauling" may include a doubling (media sent back from first cell being left and resent to second cell for transmission) or even a quadrupling (overlapping communication from both first and second cells) in the bandwidth used for communicating a particular signal."*

Since, as recited in Claims 1 and 8, the third data transfer rate is lower than the first data transfer rate, and since Reynolds describes a doubling or even a quadrupling in bandwidth requirement in the description of backhauling with regard to Figure 9, then, in this regard, Reynolds teaches away from the pending Claims 1 and 8 because of the claimed aspect that a third data transfer rate is calculated which is *lower* than the first data transfer rate, in response to the playback rate.

Thus, Applicant respectfully submits that the cited item 904, described as "message to cellular customer in cell 2" fails to teach the Claims 1 and 8 aspect of negotiating, with the first access network, the third data transfer rate for downloading the video program, when the difference between the first and third data transfer rates exceeds a threshold level.

Applicant respectfully concludes that Reynolds not only fails to teach many of the aspects of independent Claims 1 and 8, Reynolds also teaches away from the claimed invention. The addition of Hassan to Reynolds does not assist in teaching all of the elements of the pending independent claims.

Hassan discusses a satellite communication system that has variable rate satellite link diversity. Specifically, Hassan teaches at col. 2, lines 17-27 that two simultaneous links are set up between an Earth-based terminal and two different satellites. Initially, a first data rate is requested but denied, so a second data rate, lower than the first rate is established with a first satellite, then, a second data link is established at a different data rate with a second satellite. The rates are apportioned such that the first satellite rate and the second satellite rate, when added together, equals the first, unavailable data rate. Please see Hassan "Summary of Invention" for details. As stated by Hassan in col. 2, lines 5-16, if the first link rate to a first satellite is unavailable, then a second, lower rate is established with the first satellite. Then, a link with a second satellite is established.

Specifically, as stated by Hassan in col. 2, lines 5-16:

"The receiver receives a reply from the first satellite in response to the request for a communication link. If the reply indicates that a communication link is available at the first data rate, a connection is established and transmission initiated. If, however, the reply indicates that the first data rate is not available and only a second data rate (less than the first data rate) is available, then a request for a communication link is transmitted to the second satellite. If a reply from the second satellite indicates that a communication link is available, then a communication link is established with both the first and second satellites." (Hassan, col. 2, lines 5-16).

Then, Hassan discusses how a system controller balances the second and third rates between the two different spacecraft in order to sum to the first unavailable rate. As specifically expressed by Hassan in col. 2 lines 17-27:

"The system also includes a communication controller which, in response to the reply from the first satellite, apportiones the data into first and second data portions. The transmitter establishes a first communication link with the first satellite to transmit the first data portion to the first satellite at the

second data rate and, while maintaining the first communication link, establishes a second communication link with the second satellite to transmit the second data portion to the second satellite at a third data rate (which, when summed with the second data rate equals the first data rate)." (Hassan, col. 2, lines 17-27).

Thus, Hassan teaches that a first data rate is the highest rate, the second data rate is lower than the first data rate, and the third data rate is the difference between the first and second data rates because the sum of the second and the third data rates equals the first data rate.

Pending Claims 1 and 8 recite a first rate using a first network, and a second network having a second data rate which is HIGHER than the first data rate. This is in contrast to Hassan which teaches that the first data rate is unavailable and the second data rate is LOWER than the first data rate. Thus, Hassan actually teaches away from the current invention of Claims 1 and 8.

Since Reynolds fails to teach all of the elements of independent Claims 1 and 8, and since Reynolds, in at least the backhauling aspect, teaches away from the current invention, and since Hassan also teaches away from the current invention, then the combination of Reynolds and Hassan fails to establish a prima facie case of obviousness under 35 U.S.C. §103(a).

Applicant respectfully submits that the pending claims patentably define over the cited art because all elements of the pending claims are not found in the cited art and because both cited references teach away from the current invention. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of independent Claims 1 and 8.

### **Claim Rejections Pursuant to 35 U.S.C. §103**

Claims 2-7 and 9-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0045030 to Reynolds et al. (Reynolds) in view of U.S. Patent No. 6,301,231 to Hassan et al. (Hassan),

and in further view of U.S. Patent Publication No. 2006/0176968 to Keaney et al. (Keaney). Applicant respectfully traverses the rejection.

The fact that the combination of the teachings of Reynolds and Hassan fail to render obvious independent Claims 1 and 8 is discussed above.

Keaney describes a configurable Viterbi decoder to decode a coded signal for inclusion in a radio receiver for implementing the physical layer receiving function (PHY) of a wireless data network. The Keaney decoder includes a branch metric generator with an input to the coded signal, an ACS subsystem coupled to the branch metric generator, and a survivor memory unit coupled to the ACS subsystem. The decoder includes a plurality of outputs each providing a decoded version of the input signal decoded to a distinct decision depth such that the Viterbi decoder is programmable to decode the signal to one of a plurality of decision depths (See Keaney, Abstract).

The addition of Keaney to the combination of Reynolds and Hassan cannot cure the fact that the combination of Reynolds and Hassan fails to teach or suggest all of the pending independent claim elements. Also, the addition of Keaney to the combination of Reynolds and Hassan cannot cure the fact that that the combination of Reynolds and Hassan teach away from the pending independent claims. Thus, the combination of Reynolds, Hassan, and Keaney likewise fail to render obvious independent Claims 1 and 8. Thus, it is respectfully submitted that dependent Claims 2-7 and 9-14, which depend on independent Claims 1 and 8 respectively are also rendered non-obvious per MPEP §2143.03.



Serial No. 10/518,995  
Resp. dated February 10, 2009  
Reply to Final Office Action dated November 13, 2008

PATENT  
PU020308  
Customer No. 24498

## **Conclusion**

Applicant respectfully submits that the pending claims patentably define over the cited art and respectfully requests reconsideration and withdrawal of the pending rejections. Reconsideration for a Notice of Allowance is earnestly requested.

Alternatively, since the current Final rejection is fully traversed without amendments to the pending claims, then Applicant respectfully requests that the next Office Action be issued as non-final.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 07-0832 therefore.

Respectfully submitted,

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Date: February 10, 2009

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